Paul Randolph Johnson et al v. Menu Foods Inc et al Doc. 10

Jean M. Lawler (SBN 91254)
jlawler@murchisonlaw.com
Gina E. Och (SBN 170520)
goch@murchisonlaw.com
MURCHISON & CUMMING, LLP
801 South Grand Avenue, 9th Floor
Los Angeles, California 90017-4613
Telephone: (213) 623-7400
Facsimile: (213) 623-6336

ORIGINAL

FILED
CLERK, U.S. DISTRICT COURT
JUN 19 2007
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

SEND

Attorneys for Defendants,
MENU FOODS, INC., MENU FOODS INCOME FUND, and MENU FOODS MIDWEST CORP.

LODGED
2007 JUN 14 PM 12:13
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES
BY

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

PAUL RANDOLPH JOHNSON and TAMMY NAVARRETE, Plaintiffs, vs. MENU FOODS, INC., MENU FOODS INCOME FUND, MENU FOODS MIDWEST CORP., CHEMNUTRA, INC., XUZHOU ANYING BIOLOGIC TECHNOLOGY DEVELOPMENT CO., LTD., et al., Defendants.	CASE NO. CV 07-01987 GHK (AJWx) **STIPULATION AND [~~PROPOSED~~] ORDER STAYING ALL PROCEEDINGS AND FOR PRESERVATION OF EVIDENCE** Judge: Hon. George H. King Ctrm: 650

DOCKETED ON CM
JUN 20 2007
BY 053

WHEREAS, this case is one of over sixty (60) putative class actions filed in this court and several other courts throughout the country for damages and injunctive relief, arising from the manufacture, distribution and/or sale of pet food products by defendants, including but not limited to, MENU FOODS, INC., MENU FOODS INCOME FUND, and MENU FOODS MIDWEST CORP. (hereinafter referred to as "MENU FOODS");

//

(10)

Dockets.Justia.com

WHEREAS, there are several Motions to Transfer and Coordinate or Consolidate Action Pursuant to 28 U.S.C. § 1407 pending before the Judicial Panel on Multidistrict Litigation ("MDL Panel"). Plaintiffs in Sexton, et al. v. Menu Foods Income Fund, etc., et al., Case No. CV07-01958 GHK (AJWx), Denise Lee Townsend, et al. v. Menu Foods Limited, et al., Case No. CV07-00398 GHK (AJWx), and Dawn Howe, et al. v. Menu Foods Limited, et al., Case No. CV07-02060 GHK (AJWx), filed motions to transfer and coordinate or consolidate these actions to the Central District of California. Other parties have moved for transfer of all related actions to the Southern District of Florida, the Western District of Washington, the District of New Jersey, and the Northern District of Illinois;

WHEREAS, the MDL Panel will determine whether all actions, including this action, should be transferred and coordinated and/or consolidated under 28 U.S.C. § 1407 for pretrial proceedings. The MDL Panel set this matter for hearing on May 31, 2007 in Las Vegas, Nevada, heard the matter on May 31, 2007, and is not expected to make a decision on the matter until some time in July, 2007;

WHEREAS, the parties believe that in the short intervening time between now and a decision by the MDL Panel on transfer and coordination and/or consolidation, a stay of these proceedings will conserve party and judicial resources;

WHEREAS, on or about April 25, 2007, this Court entered an order to stay all proceedings pursuant to a stipulation in the lead and related case, Sexton, et al. v. Menu Foods Income Fund, etc., et al., Case No. CV07-01958 GHK (AJWx); and

WHEREAS, on or about May 22, 2007, this Court entered a similar order to stay all proceedings in the related cases, Townsend, et al. v. Menu Foods Income Fund, etc., et al., Case No. CV-07-00398 GHK (AJWx), Howe, et al. v. Menu Foods Inc., etc., et al., Case No. CV-07-02060 GHK (AJWx), and Grady, et al. v. Menu Foods Income Fund, etc., et al., Case No. CV-07-2253-GHK (AJWx).

IT IS HEREBY STIPULATED, by and between the plaintiffs PAUL RANDOLPH JOHNSON and TAMMY NAVARRETE, and defendants MENU FOODS, INC., MENU FOODS INCOME FUND, MENU FOODS MIDWEST CORP., and CHEMNUTRA, INC., through their designated counsel that this matter, including the deadlines for the parties to participate in class certification and other pretrial proceedings, be stayed pending decision by the Panel on Multi-District Litigation on the pending motions to transfer and coordinate/consolidate pending actions. Counsel shall file a joint status report within 48 hours of such decision by the MDL Panel or within 30 days hereof whichever is sooner.

All parties shall, during the pendency of the stay of this matter, comply with their duty to preserve all evidence that may be relevant to this action. This duty extends to documents, electronic data, and tangible things in the possession, custody and control of the parties to this action, and any employees, agents, contractors, or carriers who possess materials reasonably anticipated to be the subject of discovery in this action. "Preservation" is to be interpreted broadly to accomplish the goal of maintaining the integrity of all documents, data and tangible things reasonably anticipated to be the subject of discovery under Fed. R. Civ. P. 26, 45 and 56(e) in this action. Preservation includes taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, relocation, migration, theft, or mutation of such material, as well as negligent or intentional handling that would make material incomplete or inaccessible. If the business practices of any party involve the routine destruction, recycling, relocation, or mutation of materials, the party must, to the extent practicable for the pendency of this order, either:

//

//

(i) halt such business practices;

(ii) sequester or remove such material from the business process; or

(iii) arrange for the preservation of complete and accurate duplicates or copies of such material, suitable for later discovery if requested.

IT IS SO STIPULATED.

DATED: June 12, 2007

KIRTLAND & PACKARD

By: ______________________
MICHAEL L. KELLY
ROBERT M CHURELLA
ROBERT K FRIEDL
Attorneys for Plaintiffs,
PAUL RANDOLPH JOHNSON
and TAMMY NAVARRETE,.

DATED: June , 2007.

MURCHISON & CUMMING, LLP

By: ______________________
JEAN M. LAWLER
GINA E. OCH
Attorneys for Defendants,
MENU FOODS, etc., et al.

DATED: June , 2007.

MORRIS POLICH & PURDY LLP

By: ______________________
ANTHONY G. BRAZIL
MEGAN S. WYNN
WENDI J. FRISCH
Attorneys for Defendant,
CHEMNUTRA INC.

IT IS SO ORDERED:

DATE: 6/18/07

____
United States District Judge

(i) halt such business practices;

(ii) sequester or remove such material from the business process; or

(iii) arrange for the preservation of complete and accurate duplicates or copies of such material, suitable for later discovery if requested.

IT IS SO STIPULATED.

DATED: June , 2007 **KIRTLAND & PACKARD**

By: ______________________________
MICHAEL L. KELLY
ROBERT M CHURELLA
ROBERT K FRIEDL
Attorneys for Plaintiffs,
PAUL RANDOLPH JOHNSON
and TAMMY NAVARRETE,.

DATED: June 13, 2007. **MURCHISON & CUMMING, LLP**

By: [signature]
JEAN M. LAWLER
GINA E. OCH
Attorneys for Defendants,
MENU FOODS, etc., et al.

DATED: June , 2007. **MORRIS POLICH & PURDY LLP**

By: ______________________________
ANTHONY G. BRAZIL
MEGAN S. WYNN
WENDI J. FRISCH
Attorneys for Defendant,
CHEMNUTRA INC.

(i) halt such business practices;

(ii) sequester or remove such material from the business process; or

(iii) arrange for the preservation of complete and accurate duplicates or copies of such material, suitable for later discovery if requested.

IT IS SO STIPULATED.

DATED: June , 2007 **KIRTLAND & PACKARD**

By: ______________________
MICHAEL L. KELLY
ROBERT M CHURELLA
ROBERT K FRIEDL
Attorneys for Plaintiffs,
PAUL RANDOLPH JOHNSON
and TAMMY NAVARRETE,.

DATED: June , 2007. **MURCHISON & CUMMING, LLP**

By: ______________________
JEAN M. LAWLER
GINA E. OCH
Attorneys for Defendants,
MENU FOODS, etc., et al.

DATED: June 12, 2007. **MORRIS POLICH & PURDY LLP**

By: Wendi J. Frisch
ANTHONY G. BRAZIL
MEGAN S. WYNN
WENDI J. FRISCH
Attorneys for Defendant,
CHEMNUTRA INC.

O R D E R

Pursuant to Stipulation, **IT IS SO ORDERED.**

Dated: ______________

THE HONORABLE GEORGE H. KING
UNITED STATES DISTRICT COURT JUDGE

SCANNED

FWS\27612\Johnson\PLD\STIP AND ORDER TO STAY-GEO